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| RATNERPRESTIA P O BOX 980 VALLEY FORGE, PA 19482-0980 | | | EXAMINER NGO, NGUYEN HOANG | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/801,199

Applicant(s)

FISHTEYN ET AL.

Examiner

Nguyen Ngo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21, 23, 24, 26-44, 46-52 is/are rejected.
- 7) ☒ Claim(s) 22, 25, 45 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 33, 36-38, and 42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 36 states "A method of determining a baseline for use in a system or method of determining a quality ranking of user traffic...". Examiner cannot determine what is actually claimed. Is it a method of determining a baseline or a method for determining a quality ranking?

3. **Claims 33** recite the limitation "the plurality of traffic data parameters" in lines 15, 17, 18, 21, 23. There is insufficient antecedent basis for this limitation in the claim.
4. **Claim 42** recites the limitation "the plurality of traffic data parameters" " in lines 16, 19, 20, and 23. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 36-38 is rejected under 35 U.S.C. 102(e) as being anticipated by Kasriel et al. (US 2006/0036400), hereinafter referred to as Kasriel.

Regarding claim 36, Kasriel discloses a method of determining a baseline for use in a system or method of determining a quality ranking of user traffic comprised of a plurality of users, and each user is directed from a traffic producer Web site to a traffic consumer Web site, and the user traffic has user traffic data associated with each user of the user traffic and the user traffic data is comprised of a plurality of traffic data parameters, comprising the steps of:

a) monitoring the user traffic between the traffic producer Web site and the traffic consumer Web site for a predetermined period of time (method of providing a web-site performance analysis service, abstract) Kasriel further discloses that a fundamental tool collects data regarding the number of times each web site is accessed within a given period of time (page 1 [0007]);

b) collecting the user traffic data associated with each user of the monitored user traffic (page 3 [0031]);

c) storing the traffic data parameters of the collected user traffic data (Data is initially

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collected in memory structures that optimize the processing time and memory space required to store each parameter related to the performance of each web-page, page 2 [0012]) and page 3 [0031]).

d) aggregating separately each of the stored traffic data parameters (aggregated to form meaningful statistics, page 4 [0050]); and

e) determining a baseline for each of the aggregated traffic data parameters (ranking of the web pages, page 5 [0051]).

Regarding claim 37, 38 Kasriel discloses a method of determining a baseline in accordance with claim 36, wherein the traffic producer monitored in step (a) is a plurality of traffic producers with each of the plurality of traffic producers having a predetermined relationship to each other (identification of different search engines that the visitor used, page 5 [0051]).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 1, 2, 3, 4-21, 23, 24, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 39, 40, 41, 42, 43, 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kasriel et al. (US 2006/0036400), in view of Spaid (US 2004/0139192), hereinafter referred to as Kasriel and Spaid.

Regarding claim 1, 39, Kasriel discloses a method of determining a quality ranking of user traffic directed from at least one traffic producer Web site to a traffic consumer Web site, comprising the steps of (a method of providing a web-site performance analysis service that gathers data relative to visits to web-pages/web-sites, abstract):

a) establishing a reference for the traffic consumer on the at least one Web site of the traffic producer (each web page is illustrated as containing one or more "buttons" for traversing to another webpage, page 2 [0025]),

b) receiving at the traffic quality intermediary (performance analysis block) user traffic data associated with the user traffic directed from the traffic producer (performance-analysis block 190 that is configured to detect and record traversals to and from select

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web-sites and to record performance related data associated with each visit to the select websites, page 2 [0026] and page 3 [0029]));

and

c. determining a quality ranking of the user traffic based upon the user traffic data (graphic presentation presents useful information (quality ranking) to a marketer, page 3 [0030]).

Kasriel however fails to specifically disclose that the reference includes a link from the traffic producer to a traffic quality intermediary and a unique identifier to identify the traffic consumer. Kasriel however discloses that website managers and marketers desire information that can be used to enhance the web-site's performance or appearance and enhance the sales resulting from visits to a website (page 1 [0006]). In the same field of endeavor, Spaid further discloses that a web site quality measurement system includes rank data that can rank each element of the visitor data and that the rank data can include ranking for unique identifiers, referring address, and the pages and duration (page 3 [0029]). Thus it should have thus been obvious to a person skilled in the art to incorporate the concept of having a unique identifier to identify the traffic consumer as disclosed by Spaid into the web-site performance analysis method as disclosed by Kasriel in order to efficiently provide ranking of data to specific websites (i.e. traffic consumer). It would have been further been obvious to have the reference include a link from the traffic producer (a specific website) to a traffic quality

intermediary (performance analysis block of Kasriel/ web site quality measurement system of Spaid) in order to provide information (rankings, percentages, usages) to a user (web page manager/marketer).

Regarding claim 2, 31, 40, the combination of Kasriel and Spaid, fails to specifically disclose a method of determining a quality ranking of user traffic in accordance with claim 1, comprising the further step (d) of redirecting the user traffic from the traffic quality intermediary to the traffic consumer Web site. However it would have been obvious to redirect data from the traffic quality intermediary (performance analysis block of Kasriel/ web site quality measurement system of Spaid) to the traffic consumer Web site so that the consumer Web site (a specific website) may efficiently obtain and analyze traffic quality information.

Regarding claim 3, 32, 41 the combination of Kasriel and Spaid, more specifically Spaid discloses a method of determining a quality ranking of user traffic in accordance with claim 2, comprising the further step (e) of reporting the quality ranking (page 5 [0035]).

Regarding claim 4, 14, 15, 16, 18, 19, 23, 24, 29, the combination of Kasriel and Spaid more specifically Spaid discloses a method of determining a quality ranking of user traffic in accordance with claim 3, wherein the user traffic data is comprised of a plurality of traffic data parameters and the step (c) of determining a quality ranking comprises

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the steps of:

- a) comparing each of the plurality of traffic data parameters of the user traffic data against a baseline group, the baseline group comprising a respective baseline for each of the user traffic data parameters (weighting the ranked data based upon pre-established weights associated, page 2 [0012];
- b) determining a deviation for each of the plurality of traffic data parameters of the user traffic based on the comparison;
- c) weighting the deviation for each of the plurality of traffic data parameters with a predetermined weight assigned to each of the plurality of traffic data parameters; and
- d) combining each of the weighted deviations to arrive at the traffic quality ranking (weighted composite score, page 2 [0012]-[0015]).

Regarding claim 5, 8, 9, 30 this combination of Kasriel and Spaid, more specifically Kasriel discloses a method of determining a quality ranking of user traffic in accordance with claim 4, wherein before the step of comparing, at least one traffic data parameter of the user traffic data is aggregated (aggregated to form meaningful statistics, page 4 [0050]).

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Regarding claim 6, 7, 34, 35, 43, 44, the combination of Kasriel and Spaid, more specifically Kasriel discloses a method of determining a quality ranking of user traffic in accordance with claim 5 wherein the aggregated user traffic data is normalized and the quality ranking is determined based upon the normalized user traffic (page 4 [0049]).

Regarding claim 10, this combination of Kasriel and Spaid, more specifically Kasriel discloses a method of determining a quality ranking of user traffic in accordance with claim 9, wherein at least one of the aggregated plurality of traffic data parameters is represented as a percentage of occurrences of that traffic data parameter, over the period of time or the number of user selections of the listing (page 3 [0029]-[0030]).

Regarding claim 11, 12, 13, this combination of Kasriel and Spaid, more specifically Spaid discloses a method of determining a quality ranking of user traffic in accordance with claim 4, wherein the baseline group is based upon a predetermined group of traffic producers (page 2 [0012]-[0015]).

Regarding claim 17 the combination of Kasriel and Spaid more specifically Kasriel discloses a method of determining a quality ranking of user traffic in accordance to claim 15, wherein the user traffic data comprises one or more keywords used in selecting the listing of the traffic producer Web site (specific query that the visitor submitted, page 5 [0050]);

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Regarding claim 20 and 21, the combination of Kasriel and Spaid fails to specifically disclose the step of determining a cost for the traffic consumer to pay the traffic producer for user traffic based on the quality ranking. Kasriel however discloses the concept of control costs (page 7 [0069]). It would have thus been obvious to a person skilled in the art to determine the cost for the traffic consumer based on the quality ranking in order to efficiently monitor web-site performances and thus assign costs to such web-site services.

Regarding claim 26, 27, the combination of Kasriel and Spaid fails to specifically disclose a method of determining a quality ranking of user traffic in accordance with claim 4, wherein the amount of revenue generated at the traffic consumer by user traffic from the traffic producer that is redirected by the traffic quality intermediary is provided to the traffic quality intermediary and a user traffic conversion potential ranking is determined based upon the quality ranking and the revenue generated. Kasriel however discloses that marketers desire information that can be used to enhance advertising revenue from a web-site and to determine the effectiveness of advertising expenses to other web-site providers (page 1 [0006]). It would have thus been obvious to a person skilled in the art to determine a user traffic conversion potential ranking based upon quality ranking and revenue generated in order to determine the effectiveness of the web-site with respects to revenues.

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Regarding claim 28, the combination of Kasriel and Spaid, more specifically Kasriel discloses that the traffic consumer has a plurality of URL's and a separate reference is established for each URL (page 1 [0008]).

Regarding claim 33, 42, Kasriel discloses a method of determining a quality ranking of user traffic directed from at least one traffic producer Web site to a traffic consumer Web site, comprising the steps of (a method of providing a web-site performance analysis service that gathers data relative to visits to web-pages/web-sites, abstract):

a) establishing a reference for the traffic consumer on the at least one Web site of the traffic producer, (each web page is illustrated as containing one or more "buttons" for traversing to another webpage, page 2 [0025]),

b) receiving at the traffic quality intermediary (performance analysis block) user traffic data associated with the user traffic directed from the traffic producer (performance-analysis block 190 that is configured to detect and record traversals to and from select web-sites and to record performance related data associated with each visit to the select websites, page 2 [0026] and page 3 [0029]));

and

d. determining a quality ranking of the user traffic based upon the user traffic data

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(graphic presentation presents useful information (quality ranking) to a marketer, page 3 [0030]).

Kasriel however fails to specifically disclose that the reference includes a link from the traffic producer to a traffic quality intermediary and a unique identifier to identify the traffic consumer and of redirecting the user traffic from the traffic quality intermediary to the traffic consumer Web site. Kasriel however discloses that website managers and marketers desire information that can be used to enhance the web-site's performance or appearance and enhance the sales resulting from visits to a website (page 1 [0006]). In the same field of endeavor, Spaid further discloses that a web site quality measurement system includes rank data that can rank each element of the visitor data and that the rank data can include ranking for unique identifiers, referring address, and the pages and duration (page 3 [0029]). Thus it should have thus been obvious to a person skilled in the art to incorporate the concept of having a unique identifier to identify the traffic consumer as disclosed by Spaid into the web-site performance analysis method as disclosed by Kasriel in order to efficiently provide ranking of data to specific websites (i.e. traffic consumer). It would have been further obvious to have the reference include a link from the traffic producer (a specific website) to a traffic quality intermediary (performance analysis block of Kasriel/ web site quality measurement system of Spaid) in order to provide information (rankings, percentages, usages) to a user (web page manager/marketer). It would have been further obvious to redirect data from the traffic quality intermediary (performance

analysis block of Kasriel/ web site quality measurement system of Spaid) to the traffic consumer Web site so that the consumer Web site (a specific website) may efficiently obtain and analyze traffic quality information.

The combination of Kasriel and Spaid more specifically Spaid further discloses wherein the user traffic data is comprised of a plurality of traffic data parameters and the step (c) of determining a quality ranking comprises the steps of:

- i) comparing each of the plurality of traffic data parameters of the user traffic data against a baseline group, the baseline group comprising a respective baseline for each of the user traffic data parameters (weighting the ranked data based upon pre-established weights associated, page 2 [0012];
- ii) determining a deviation for each of the plurality of traffic data parameters of the user traffic based on the comparison;
- iii) weighting the deviation for each of the plurality of traffic data parameters with a predetermined weight assigned to each of the plurality of traffic data parameters; and
- iv) combining each of the weighted deviations to arrive at the traffic quality ranking (weighted composite score, page 2 [0012]-[0015]).

(e) reporting the quality ranking (page 5 [0035]).

10. Claims 46-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kasriel et al. (US 2006/0036400), in view of Spaid (US 2004/0139192), in further view of Glommen et al. (US 2004/0260807), hereinafter referred to as Kasriel, Spaid, and Glommen.

Regarding claim 46,47, the combination of Kasriel and Spaid fails to specifically disclose modifying the reference for the traffic consumer to allow tracking a user by a traffic quality intermediary. Spaid however discloses that traffic measurement systems are used so that visits to Web sites are measured (page 4 [0035]). Glommen further discloses of a method that uses a traffic analysis cookie in which is passed back and forth between the visitor browser and the traffic analysis server to maintain a record of the visitor website path and that the collection of path data in the cookie permits data to be analyzed and be available for viewing in real-time (page 3 [0047]-[0048]). It would have thus been obvious to a person skilled in the art to incorporate the use of a traffic analysis cookie as disclosed by Glommen into the web-site performance analysis method as disclosed by the combination of Kasriel and Spaid; in order to efficiently track user traffic through a website.

Regarding claim 48, 49, 50, 51, 52, the combination of Kasriel, Spaid and Glommen, more specifically Glommen discloses a method of determining a quality ranking of user

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traffic in accordance with claim 47, wherein the embedded software code is adapted to execute when the reference for the traffic consumer is loaded and before a user clicks on the reference for the traffic consumer (page 4 [0064] and page 4 [0072]).

Allowable Subject Matter

11. Claims 22, 25, and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

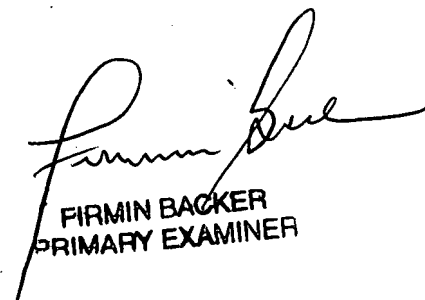
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a) Spalink et al. (US 2006/0070117), Method and system for monitoring online behavior at a remote site and creating online behavior profiles
- b) Simons (US 2003/0014331), Affiliate marketing search facility for ranking merchants and recording referral commissions to affiliate sites based upon users' on-line activity
- c) Muret et al. (US 2003/0208594), System and method for tracking unique visitors to a website

- d) Taraborelli et al. (US 2003/0208578), Web marketing method and system for increasing volume of quality visitor traffic on a web site
- e) Taylor (US 2003/0028617), Communication within a communication network
- f) Bradley et al. (US 2002/0186237), Method and system for displaying analytics about a website and its contents

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nguyen Ngo whose telephone number is (571) 272-8398. The examiner can normally be reached on Monday-Friday 7am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on (571) 272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


FIRMIN BACKER
PRIMARY EXAMINER

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N.N.
Nguyen Ngo

United States Patent & Trademark Office
Patent Examiner AU 2663
(571) 272-8398